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10/575,399	01/09/2007	Jixian Li	601-6	8993
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Kaplan Gilman & Pergament LLP			ALIE, GHASSEM	
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Woodbridge, NJ 07095			ART UNIT	PAPER NUMBER
			3724	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,399	LI, JIXIAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	GHASSEM ALIE	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, blades on the peripheries of the semi-circular bowl formed as an oblique blade, a right angle blade, or a combination of an oblique blade and a right-angle blade as set forth in claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the

disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains phrases which can implied such as "The inventions relates to a cutting tool." In addition the abstract contains legal phraseology often used in patent claims such as "consists of." Correction is required.

See MPEP § 608.01(b).

#### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: in claim 1, "body(2)" should be --body (2)--; "a handle(1)" should be --a handle (1)--; "end face(41)" should be --end face (41)--, and "surface(42)" should be --surface (42)--. Regarding claim 1, a semi-spherical bowl with blade" should read --a semi-spherical bowl with a blade--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 1, the specification does not disclose how the tool is used with a machine for machining foodstuff ball. It appears that the tool disclosed in the invention is a hand-held cutting tool. Therefore, it is not clear how machines foodstuff. Is there any motor to rotate the hand tool? Is the hand tool connected to a machining device? If so, the specification has not disclosed any motorized device or apparatus. Regarding claim 5, the specification does not disclose how the blades 7 are formed as an oblique blade, a right-angle blade or a combination of an oblique and a right-angle blade. It is not clear how oblique the blades 7 are. Are the cutting edges of the blades 7 oblique, right-angle, or combination thereof? In addition, it appears that blade 7 is a blade at the end face of the periphery of the semi-spherical bowl. In this case, the blade is a single blade in a shape of a circle. It is not clear how the blade 7 could encompass multiple blades.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, “A cutting tool for machining foodstuff ball comprising a main rod body (2) with a handle (1) and a semi-spherical bowl (4) with blade, is characterized in that a connection part” is confusing. It is not clear where the preamble of

the claim ends and where the body of the claim starts. There are two transitional phrases in the claim. Therefore, it is not clear whether the cutting tool includes also a connection part or another part of the cutting tool. It is not clear whether or not the main rod body, a handle and a semi-spherical bowl is positively being claimed. Regarding claim 1, “A cutting tool for machining” is not clear. It is not clear how the tool is used for machining. Is the tool motorized? Is the tool used with a machining apparatus? Regarding claim 1, “the end face (41)” and “the axis of the main rod” lack antecedent basis. Regarding claim 1, “the end face (41) of the semi-spherical bowl with blade and the axis of the main rod body (20 lie at 42-60 degrees” is not clear. It is not clear that relative to what part the axis of the main body and the end face of the semi-spherical bowl lie at 45-60 degree. In addition, the claim should specify “45-60 degrees angel.” Regarding claim 1, “one or more holes (5) with geometrical shapes are provided on the semi-spherical surface (42) of the semi-spherical bowl with blade and the peripheries of the holes are provided with one or more blades (6) for cutting” is not clear. It should be noted that not all the holes in different embodiments as set forth in claim 6 have a geometrical shape. In addition, it is not clear how many holes have been claimed. Claim 1 calls for one or more holes. However, claim 1 also recites, “the holes are provided with one or more blades.” It is not clear what the scope of the clime is. It is not clear whether one hole, many holes or both have been claimed. Furthermore, “the semi-spherical surface (42)” and “the peripheries of the blades” lack antecedent basis. Regarding claims 2-4, “the holes” recitation is confusing, since claim 1 also calls for one hole. Regarding claim 4, “the orientation of the blades” is confusing. It should be noted that claim 1 calls for one or more blades. However, claim 4 which depends from claim 1 only calls for more than one blade.

Regarding claim 5, “blades (7)” lack antecedent basis. It should be noted that claim 1 merely calls for “a semi-spherical bowl (4) with blade.” Therefore, it is not clear what the blades (7) are as set forth in claim 5. Regarding claim 6, “in the shape of banana, fan, arch, pear or cone” is not clear. It is not clear to what extend an object should look like a banana , a fan, an arch, a pear or a cone to be considered to have a shape of a banana, a fan, an arch, a pear or a cone.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or On sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawrence et al. (2,631,551), hereinafter Lawrence. Regarding claim 1, as best understood, Lawrence teaches a cutting tool capable of machining or carving foodstuff ball. Lawrence also teaches that he cutting tool includes a handle 2, 12, a semi-spherical bowl 39-41 with blade 39, and a main rod body 8. Lawrence also teaches a connection part 5 is disposed between the main rod body 8 and the semi-spherical bowl 39-41 with blade, the end face of the semi-spherical bowl with blade and the axis of the main rod body lie at 45-60 degrees. It should be noted that the end face of the semi-spherical bowl rotated to different angles including an angle between 45 to 60 degrees with respect to the axis of the main rod body. Lawrence also teaches that semi-spherical bowl 39-41 having a semi-spherical surface. Lawrence also teaches that the semi-spherical surface has a hole. It should be noted that the

hole is defined by the holes between blades 40. See Figs. 1-4 and col. 2, lines 14-21 in Lawrence.

Regarding claim 4, Lawrence teaches everything noted above including that the orientation of the blades 40 on the periphery of the hole is consistent with of the blade for cutting on the periphery of the semi-spherical bowl with blade.

Regarding claim 5, Lawrence teaches everything noted above including that the blade 39 on the periphery of the semi-spherical bowl is formed as an oblique blade or a right angle blade. It should be noted that the blade 39 either is slanted or oblique or positioned at 90 degree angle. See Fig. 3 in Lawrence.

Regarding claim 6, Lawrence teaches everything noted above including that the hole is formed in shape of pear or arch.

#### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence. Regarding claims 2-3, Lawrence teaches everything noted above, but Lawrence does not explicitly teach that the sum of the areas of the hole provided on the semi-spherical bowl with blade is no more than 75% or 60% of the whole surface area of the surface of the semi-spherical bowl with blade. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the holes in a manner that the sum of

the areas of the holes is no more than 75% or 60% of the whole surface area of the semi-spherical bowl, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

13. Claims 1-4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lieb (1,263,780). Regarding claim 1, as best understood, Lieb teaches a cutting tool capable of machining or carving foodstuff ball. Lieb also teaches that the cutting tool includes a handle (defined by the top portion of element 2), a semi-spherical bowl 1 with blade, and a main rod body (defined by the bottom portion of the element 2 that is connected to the curved section of element which is connected to the bowl 1). The connection part is defined by the curved section. It should also be noted that the semi-spherical bowl has a blade which is blade 3. Lieb also teaches a connection part is disposed between the main rod body and the semi-spherical bowl 1 with blade, the end face of the semi-spherical bowl with blade and the axis of the main rod body lie at 45-60 degrees. It should be noted that the end face of the semi-spherical is positioned at an angle with respect to the main rod body. The angle appears to be between 45 to 60 degrees. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the angle of the end face of the semi-spherical bowl with the axis of the main rod between 45 to 60 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Lieb also teaches that semi-spherical bowl 1 having a semi-spherical surface. Lieb also teaches that the semi-spherical surface has a hole. The hole is provided with a blade 3. See Figs. 1-2 in Lieb.

Regarding claims 2 and 3, Lieb teaches everything noted above including that the sum of the areas of the hole provided on the semi-spherical bowl 1 with blade is no more than 75% or 60% of the whole surface area of the surface of the semi-spherical bowl with blade.

Regarding claim 4, Lieb teaches everything noted above including that the orientation of the blades on the periphery of the hole is consistent with of the blade for cutting on the periphery of the semi-spherical bowl with blade.

Regarding claim 6, Lieb teaches everything noted above including that the hole is formed in shape of pear or arch.

14. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes (2,778,109) in view of Lieb (1,263,780). Regarding claim 1, as best understood, Haynes teaches a cutting tool capable of machining or carving foodstuff ball. James also teaches that he cutting tool includes a handle (defined by the top portion of element 16), a semi-spherical bowl 12, and a main rod body (defined by the bottom portion of the element 16 that is connected to the curved section of element 16 which is connected to the bowl 12). The connection part is defined by the curved section. Haynes also teaches a connection part is disposed between the main rod body and the semi-spherical bowl 12 with blade 18, 20, 24, the end face of the semi-spherical bowl with blade and the axis of the main rod body lie at 45-60 degrees. It should be noted that the end face of the semi-spherical is positioned at an angle with respect to the main rod body. The angle appears to be between 45 to 60degrees. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the angle of the end face of the semi-spherical bowl with the axis of the main rod between 45 to 60 degrees, since it has been held that discovering an

optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Haynes does not teach that the semi-spherical surface of the bowl includes a hole and the periphery of the hole is provided with a blade. However, Lieb teaches a cutting tool including a semi-spherical bowl 1 having a semi-spherical surface. Lieb also teaches that the semi-spherical surface has a hole. The hole is provided with a blade 3. See Figs. 1-2 in Lieb. It would have been obvious to a person of ordinary skill in the art to provide Haynes' cutting tool with the hole and blade, as taught by Lieb in order to enable the cutting tool to cut food products with the semi-spherical bowl.

Regarding claims 2 and 3, Haynes, as taught by Lieb, teaches everything noted above including that the sum of the areas of the hole provided on the semi-spherical bowl 1 with blade is no more than 75% or 60% of the whole surface area of the surface of the semi-spherical bowl with blade.

Regarding claim 4, Haynes, as taught by Lieb, teaches everything noted above including that the orientation of the blades on the periphery of the hole is consistent with of the blade for cutting on the periphery of the semi-spherical bowl with blade.

Regarding claim 5, Haynes teaches everything noted above including that the blade 18, 20, 24 on the periphery of the semi-spherical bowl is formed as an oblique blade.

Regarding claim 6, Haynes, as taught by Lieb, teaches everything noted above including that the hole is formed in shape of pear or arch.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ralls (4,850,843), Weinstein (3,598,062) and James (1,643,456) teach a cutting tool having a semi-spherical bowl with a blade.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alie/

Primary Examiner, Art Unit 3724

May 12, 2010